

STATE OF TEXAS §
COUNTIES OF ARANSAS §
SAN PATRICIO AND NUECES §
CITY OF ARANSAS PASS §

On this the 16th day of November, 2009 the City Council of the City of Aransas Pass convened in a Regular Council Meeting being open to the Public at the regular meeting place thereof in the City Hall and notice of said meeting giving the time, place, date and subject hereof having been posted and prescribed by Chapter 551 of the Texas Government Code with the following attendance to wit constituting a quorum.

PRESENT: Tommy Knight, Mayor
Jay Attaway, Mayor Pro Tempore
Vickie Abrego, Council Member
Phillip Hyatt, Council Member
Karen Mayer, Council Member

ABSENT:

ADMINISTRATIVE
PERSONNEL PRESENT: Reggie Winters, City Manager
Allen Lawrence, City Attorney
Ada Owens, City Secretary

ADMINISTRATIVE
PERSONNEL ABSENT:

STAFF PRESENT: Darrell Jones, Police Chief
Frank Truitt, City Inspector

OTHERS PRESENT: Ralph & Lu Arcemont, Rosemary Vega/Chamber of Commerce, Ernie & Olivia Torres, Eddie Arnold, Betty Car, Sandy Kubek, David Underbrink & Thomas Tiffen/NEI, Jeanie & Donald Brummett, Christie Pruitt, Ann P. Melton, H.E & Joyce Nauman, B.J. Thomas, Ivah Mircovich, Virginia Bufkin, Michael C. Dallas, Elizabeth Hazelton, Donna, Carl, Donna McAhee, Maria Pineda, Jim & Alpha Covington, Paul & Jo Ann Biek, Jack Chaney/Aransas Co. Commissioner, Thomas J. Blazek/Rockport City Manager, Jeanne Hunter, Avery Blankenship, Gilliam Blankenship, Dottie J. Medulion, Shirley Goodson, Elen Mickle, Eva Young, Ellie Block, Walter Hershie, Ed Block, Dan & Pat Grosie, Doil Kellar, Jim Rummage, Merlin Hartdean, Sheryl & Connor Sullivan, Mary Rummage, Jimmie Nabours, Wayne C. Luce, Linda Collins, Sandra & Bob Paul, Jane Doss, Alton Briggs, Brian Dwyre, Erik Abshire, Robert Branch, Steven James, Norma Matlock, Walter & Kathy Abbott, Allen C. Lee, Judy & Dan Vlasek, Warren & Juanita Michaels, June Johnson, Randall & Anne Chandler, Rufino Lozano/SP Co. Appraisal Dist., Bahia Bay residents: Harold Winal, Roger & Betty Horan, Huey & Steve Fischer, City by the Sea Residents: Christopher Adams, Pamela Dixon, Pat Smith, Bob Smith

There may have been others present who did not sign in.

ITEM 1. CALL MEETING TO ORDER.

Mayor Knight called the meeting to order at 7:00 p.m. on November 16, 2009.

ITEM 2. INVOCATION AND PLEDGE OF ALLEGIANCE TO THE UNITED STATES FLAG.

Council Member Abrego gave the invocation. Mayor Knight led the Pledge of Allegiance to the United States flag.

ITEM 3. CONSIDER AND ACT ON APPROVAL OF MINUTES OF NOVEMBER 2, 2009.

Mayor Pro Tem Attaway made the motion to approve the minutes of November 2, 2009. Council Member Mayer seconded the motion and the motion carried unanimously.

ITEM 4. CONSIDER AND ACT ON RESOLUTION 2009-624 – ADOPTING A THREE-YEAR MUNICIPAL ANNEXATION PLAN.

Mayor Knight stated the Council would vote on the Resolution to adopt a three-year annexation plan and at the end of three years, a future Council would have 30 days to act on the annexation. He stated Jim Rummage had furnished names of six people from the proposed annexation area who would speak in opposition of the proposed annexation.

Jim Rummage thanked the Council and named the speakers that represented a group of residents in the proposed annexation area.

Randy Chandler from Bahia Bay stated he thought plans for annexation were an error. He stated he thought citizens, businesses and the harbor were the most important assets for the City, not City employees as stated on the City's website. He stated sewer might be available (for areas north of the City in the proposed annexation area) within a year or so (from the City of Rockport). He stated he saw nothing ecologically sound about installing sewer systems that may or may not occur for many years when they (in the proposed annexation area) have the opportunity (to have sewer) now. He stated the septic systems in Bahia Bay were great and had been tested. He stated they looked to Rockport for everything from electricity to sewer, which is expected, and water. He stated they (Bahia Bay residents) visited Rockport on a daily basis and go to Aransas Pass only occasionally. Mr. Chandler spoke on the lack of sewer service in 17% of areas inside the city limits, funding the sewer project, migration due to tax increases, and Bahia Bay being divided between Rockport and Aransas Pass ETJ's. He asked the Council to vote no on the annexation plan.

Judy Vlassek from City by the Sea (CBTS) stated she had previously given the Council a report on the level of services CBTS receives from Rockport Fire Department and EMS service. She stated the response time (from emergency services) would double or quadruple if CBTS is annexed by Aransas Pass. She stated the City of Aransas Pass had tried to annex CBTS in 1993 and had made an analysis of the number of employees the City would have to add; transportation for evacuation would increase for 120 to 150 people (in the annexed area); fire protection would have another 50 calls per year; the service plan called for three more firefighters plus fire station and equipment; four more patrol officers and one investigator would be needed; and the City's study showed CBTS would become a patrol district. She stated the City's 1993 study showed the net (income) from service fees would only be \$7,000.00 per year. She stated the citizens (in the proposed annexation area) were completely invested and committed to opposing annexation and would not go away. She stated the City needed them but they, as Aransas County residents, did not need the City.

Tom Birkencotter from Bahia Bay stated he echoed the sentiments of Randy Chandler regarding the sewer. He stated the City estimated the sewer system would cost \$14M and estimated the revenue at \$747,000.00, which would take 18 years to pay for the system if all the money from taxes went to pay for the sewer system. He stated Rockport, at less than 50% capacity, already had the capacity for the expanded sewer system. He stated the tax rate would increase from \$0.29 per one hundred for Rockport to \$0.59 per hundred for Aransas Pass, for a promise to build a sewer system which the City may not be able to afford versus one that is already operating. He stated he wondered if EMS would be able to get to him. He stated in Rockport the EMS takes about 8.9 minutes to get to his house, where it would take at least double that time coming from Ingleside. He stated that was a huge concern for him.

Jack Cheaney, Aransas County Commissioner Precinct 1 and 1A, stated he had been asked to look at the proposed annexation plan by the residents in his precinct. He stated he had been a City Manager and involved in three annexations, two successful and one unsuccessful. He stated the Council and residents had been gracious. He stated the bottom line was value. He asked the Council what could the Council bring to the residents of the proposed annexation area that would make what they were going to pay to the City equal or even close to equal to what they (proposed annexation area residents) were going to give to the City? He stated that was the concern of every person he had talked to (in the proposed annexation area). He stated whether it was Rockport or Aransas Pass, he thought was a preference. He stated the residents should get some sort of value back. He stated everyone understood what Aransas Pass could do and what they could not do. He stated whatever vote the Council made, he and the residents appreciate the time to speak to this (annexation plan). He stated, at this time, he did not think the value was equal.

Jim Rummage stated economic hard times had affected everyone from the Federal Government to the smallest village in this country. He asked the Council was there any way they (residents of the proposed annexation area) could work with Aransas Pass and the four subdivisions ,plus, to help the City achieve a method where the Council could, without financially overburdening them (proposed annexation residents) with taxes and burdening the City with a strain on services and financial needs. He stated he believed there was, by forming a contractual partnership where the subdivisions would help the City, with funds that could be used to further develop Conn Brown Harbor. He stated that was the City's economic engine to the community. He stated he would propose they (proposed annexation residents) would fund 20% of what their estimated property taxes would be today in lieu of annexation on a continuing basis. He stated this would give Aransas Pass a few years to get ahead and start out financially strong. He stated a developer is planning to provide sewer to a new subdivision and asked why not research the possibility of a joint venture? He stated he wished the Council would consider tabling the Resolution for 90 days while the property owners' associations collectively worked together to make a formal proposal to the Council. Mr. Rummage thanked the

Council for their time.

Steve Fisher stated he was president of the area bar association and a school board member in Rockport. When asked by Mayor Knight, he stated he lived at 139 Ocean Drive (Bahia Bay). He gave an explanation of the reasons for annexation involving close neighbors sharing services when only some live in the city limits. He stated the residents in the proposed annexation area would fight the annexation with billboards, bumper stickers and flooding the internet, advertising Aransas Pass as the “crack capital, corruption capital and the speed trap capital.” He stated the City wanted to annex because the City thought the revenue would be more than the City would pay out (furnishing utilities to the area). He stated the advertisements would have the City Council’s names on them because they were the ones that brought the disaster to Aransas Pass. He stated they had land on the north and west sides (of the City).

Mayor Pro Tem Attaway made the motion to approve Resolution 2009-624 adopting a three-year Municipal Annexation Plan. Council Member Mayer seconded the motion and the motion carried unanimously.

ITEM 5. **CONSIDER AND ACT ON AUTHORIZING NAISMITH ENGINEERING TO CONDUCT A STUDY AND PILOT PROGRAM ON THE CONTAMINATION ON THE FORMER JBS LEASE SITE IN CONN BROWN HARBOR, NOT TO EXCEED \$68,000.00.**

Dave Sullivan with Naismith Engineering stated the program would define the zone of contamination and be a different technology, pumping the old diesel out of the ground whereas before the diesel was gravity flowing to a well, then pumped out, on the JBS site. He stated the planned program could be done while a tenant operation and salvaging proceeded. He stated the scope of work would be accomplished in 90 days, after which he would give the Council a report that would define the contamination and cleanup once and for all.

Council Member Abrego asked Mr. Sullivan how long would the cleanup take?

Mr. Sullivan stated they would be using dual phase extraction technology and after 90 days, if there was good progress, it might be two more months of very aggressive pumping that could cost \$100,000.00 to \$200,000.00. He stated no digging would be done except concerning the bulkhead integrity. He stated that type of dual phase extraction could possibly be accomplished in three or four months. He stated a wellfield would be pumping, that was why there could be continued activity on the site.

Mayor Pro Tem Attaway asked Mr. Sullivan would some of the old diesel be removed for the \$68,000.00?

Mr. Sullivan stated yes, it was not to exceed (\$68,000.00). He stated old diesel was going through the bulkhead and getting into the water. He state there were booms placed around the diesel and the Texas Commission on Environmental Quality (TCEQ) knew the City had an approach and a plan to clean up the historical release once and for all, so the authorities were not calling (the release) a violation. He stated once the diesel got past the booms the Coast Guard and Texas General Land Office would get involved. He stated this contaminated site was the highest priority because there was an ongoing release (of diesel) from the bulkhead into the water. He stated there had been no extraction of diesel within the last two months. He stated there would be continued removal of diesel). He stated there would be some initial hand bailing of the wells that were already on the site until the dual phase extraction pilot scale project was up and running. He stated there would be delineation of the site; more monitoring wells installed and delineated. He stated the monitoring would better define the zone of contamination and, at the same time, there would be manual baling and the pilot scale project to start pumping the contamination out. He stated the pilot scale project would define how successful the project was and if the contamination was actually being pulled in from the perimeter that had been defined. He stated they would know how much more (cleanup) would be needed after the 90 days.

Mayor Pro Tem Attaway made the motion to authorize Naismith Engineering to conduct a study and pilot program on the contamination on the former JBS lease site in Conn Brown Harbor, not to exceed \$68,000.00. Council Member Abrego seconded the motion and the motion carried unanimously.

ITEM 6. **CONSIDER AND ACT ON REQUEST OF MACK OLIVER TO LEASE LOTS 1 & 2, BLOCK A, CONN BROWN HARBOR (518 BIGELOW).**

Council Member Mayer made the motion to untable Item 6. Council Member Abrego seconded the motion and the motion carried unanimously.

After discussion regarding the necessity of proof that Mr. Oliver had obtained 501C3 status, which had not been approved by the Internal Revenue Service yet, Council Member Mayer made the motion to table Item 6 pending receipt of proof of Mr. Oliver’s 501C3 status approval. Council Member Hyatt seconded the motion and the motion

carried unanimously.

ITEM 7. PUBLIC HEARING ON REQUEST OF MARIA PINEDA FOR A CONDITIONAL USE PERMIT FOR A NIGHTCLUB. THE PROPERTY IS DESCRIBED AS BLOCK 548, LOT 13 THRU 16, 157 S. COMMERCIAL STREET, ARANSAS PASS, TEXAS, SAN PATRICIO COUNTY. THE PROPERTY IS ZONED (GB) GENERAL BUSINESS.

City Attorney Allen Lawrence opened the public hearing at 7:41 p.m. on request of Maria Pineda for a Conditional Use Permit for a nightclub. The property is described as Block 548, Lot 13 thru 16, 157 S. Commercial Street, Aransas Pass, Texas, San Patricio County. He stated the property was zoned General Business; all notices were given and the Planning and Zoning Commission had previously met on the request and recommended City Council's approval. He asked Ms. Pineda to come forward and speak for her request.

Ms. Villarreal spoke for Ms. Pineda stating Ms. Pineda wanted to open a nightclub in Aransas Pass. Discussion was held regarding security, a no minors policy, business hours, trash on the property, and liquor taken into the building.

Property owner Cruz Galvan spoke for the request.

Mr. Lawrence asked was anyone present to speak against the request? Seeing none he closed the public hearing at 7:50 p.m.

ITEM 8. CONSIDER AND ACT REQUEST OF MARIA PINEDA FOR A CONDITIONAL USE PERMIT FOR A NIGHTCLUB. THE PROPERTY IS DESCRIBED AS BLOCK 548, LOT 13 THRU 16, 157 S. COMMERCIAL STREET, ARANSAS PASS, TEXAS, SAN PATRICIO COUNTY. THE PROPERTY IS ZONED (GB) GENERAL BUSINESS.

Mayor Pro Tem Attaway made the motion to approve the request of Maria Pineda for a Conditional Use Permit for a nightclub for two years. Council Member Hyatt seconded the motion and the motion carried unanimously.

ITEM 9. PUBLIC HEARING ON THE REQUEST OF LILLIAN TAYLOR TO REZONE (110X225') WEST PART OF LOT 1, TRACT 7 OUTLOT 37, 162 E. JOHNSON, ARANSAS PASS, TEXAS, SAN PATRICIO COUNTY, TO (GB) GENERAL BUSINESS. THE PROPERTY IS ZONED (R10) RESIDENTIAL DISTRICT.

City Attorney Allen Lawrence opened the public hearing at 7:51 p.m. on the request of Lillian Taylor to rezone (110x225') west part of Lot 1, Tract 7, Outlot 37, 162 E. Johnson, Aransas Pass, Texas, San Patricio County. He stated the property was zoned Residential; all notices were given and the Planning and Zoning Commission had previously met on the request and recommended the City Council deny the request. He asked was anyone present to speak for the request?

There were none.

The City Attorney asked was there anyone present to speak against the request?

Steven Jones stated the Planning and Zoning Commission had informed Ms. Taylor rezoning was not necessary for the type of business she wanted to open. He stated he and the neighbors were against the rezoning because they were afraid an undesirable business would move in.

Mr. Lawrence asked was anyone else present to speak against the request? Seeing none he closed the public hearing at 7:53 p.m.

ITEM 10. CONSIDER AND ACT ON THE REQUEST OF LILLIAN TAYLOR TO REZONE (110X225') WEST PART OF LOT 1, TRACT 7 OUTLOT 37, 162 E. JOHNSON, ARANSAS PASS, TEXAS, SAN PATRICIO COUNTY, TO (GB) GENERAL BUSINESS. THE PROPERTY IS ZONED (R10) RESIDENTIAL DISTRICT.

Mayor Pro Tem Attaway made the motion to deny the request of Lillian Taylor to rezone (110x225') west part of Lot 1, Tract 7, Outlot 37, 162 E. Johnson, Aransas Pass, Texas, San Patricio County. Council Member Mayer seconded the motion and the motion carried unanimously.

ITEM 11. CONSIDER AND ACT ON RESOLUTION 2009-625 – PROPOSAL FROM THE BOARD OF DIRECTORS OF THE SAN PATRICIO COUNTY APPRAISAL DISTRICT TO LEASE AND RENOVATE A BUILDING FROM THE CITY OF SINTON FOR APPRAISAL DISTRICT OPERATIONS.

Rufino Lozano, San Patricio Appraisal District Chief Appraiser stated the Appraisal District needed more room and he was present to answer any questions the City Council might have.

Mayor Pro Tem Attaway made the motion to adopt Resolution 2009-625, a proposal from the Board of Directors of the San Patricio County Appraisal District to lease and renovate a building from the City of Sinton for appraisal district operations. Council Member Abrego seconded the motion and the motion carried unanimously.

ITEM 12. CONSIDER AND ACT ON APPROVING ORDINANCE 2009-3966-REPEALING ORDINANCE 2009-3965, CONDITIONAL USE PERMIT FOR KID’S INDOOR AMUSEMENT FACILITY.

Mayor Knight stated the business owners had not complied with the conditions of the Conditional Use Permit and the City Manager recommended the Ordinance be repealed.

Council Member Mayer made the motion to approve Ordinance 2009-3966 repealing Ordinance 2009-3965, a Conditional Use Permit for a kid’s indoor amusement facility. Council Member Hyatt seconded the motion and the motion carried unanimously.

ITEM 13. UPDATE FROM CITY MANAGER REGARDING SOFTBALL LEASE CONTRACT, CHANGES TO PERSONNEL MANUAL, GLO AGREEMENT, BULK TRASH PROGRAM AND RECYCLING.

City Manager Reggie Winters stated Roland Pena had submitting proof of insurance for his lease of the softball fields. He stated he and Mr. Pena were working on a contract.

The City Manager stated the personnel manual had been changed to require new employees to be employed six months before they could take paid sick leave. He stated there was already a nepotism clause in the personnel manual.

The City Manager stated he and the City Attorney were working to extend the Texas General Land Office (GLO) agreement regarding Conn Brown Harbor.

The City Manager stated he talked to Allied Waste regarding a bulk trash program. He stated plans were to put 5 or 6 roll-off trash containers at the transfer station January 21 so Aransas Pass citizens could dispose of bulk items for free. He stated he and Allied Waste were also discussing a recycling program. He stated one option was door-to-door pick up of recyclable items once a week, which would cost approximately \$3.50 per household per month. He stated the other option was to establish a site where citizens could take their recyclable items for disposal. He stated he would check on the City of Kerrville’s recycling program that was recommended by Council Member Hyatt.

ITEM 14. DISCUSSION REGARDING CITY RECORDS RETENTION.

Council Member Abrego asked the City Secretary what did the City have in place for records retention?

The City Secretary explained the City’s present records retention system and future plans to update records retention by using a laserfiche system.

ITEM 14. CITIZEN’S COMMENTS.

Ernestine Chisholm stated there would be a musical celebration at the Faith Mission Church of God in Christ and the Antioch Baptist Church benefiting needy children. She asked that the community and businesses support the cause with unwrapped toys and nonperishable food items. She stated the toys would be donated to Court Appointed Special Advocates (CASA) and the food would be donated to the food bank of Aransas Pass. She stated a container would be in the lobby of City Hall to collect food and toys.

Jimmy Nabours stated he still thought the Static Peanut was operating illegally.

ITEM 15. ADJOURNMENT OF MEETING.

Council Member Mayer made the motion to adjourn the meeting. Mayor Pro Tem Attaway seconded the motion and the motion carried unanimously.

Mayor Knight adjourned the meeting at 8:17 p.m.

ATTEST: _____
Tommy Knight, Mayor

Ada Owens, City Secretary